

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARCA OUIDA,

Plaintiff,

v.

HARBORS HOME HEALTH AND
HOSPICE,

Defendant.

CASE NO. 3:23-cv-05356-DGE

ORDER ON MOTION FOR
PROTECTIVE ORDER
(DKT. NO. 60)

I. INTRODUCTION

This matter comes before the Court on Defendants’ motion for a protective order. (Dkt. No. 60.) For the foregoing reasons, the Court DENIES the Motion.

II. BACKGROUND

On September 17, 2023, Plaintiff Marca Ouida, proceeding *pro se*, sent four Defendants a total of 461 requests for admission (“RFAs”). (Dkt. No. 61-1 at 2.) Defendants’ counsel, representing all Defendants, met and conferred with Plaintiff, asking whether she would agree to

1 limit the RFAs to 25 per each of the four defendants. (Dkt. No. 61-2 at 3.) Plaintiff refused.
2 (*Id.*) Defendants now bring the instant motion seeking a protective order, or alternatively a 60-
3 day extension in responding to the RFAs.

4 5 **III. LEGAL STANDARD**

6 A court “must limit the frequency or extent of discovery otherwise allowed” if “(i) the
7 discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other
8 source that is more convenient, less burdensome, or less expensive; (ii) the party seeking
9 discovery has had ample opportunity to obtain the information by discovery in the action; or (iii)
10 the proposed discovery is outside the scope permitted by Rule 26(b)(1).” Fed. R. Civ. P.
11 26(b)(2)(C).

12 Federal Rule of Civil Procedure 36 governs RFAs and does not set a numerical limit on
13 how many RFAs a party may serve. However, “the right to discovery, even plainly relevant
14 discovery, is not limitless.” *K.C.R. v. County of Los Angeles*, 2014 WL 3433772, at * 2 (C.D.
15 Cal. July 14, 2014). Courts may, upon a showing of good cause, issue a protective order “to
16 protect a party or person from annoyance, embarrassment, oppression, or undue burden or
17 expense.” Fed. R. Civ. P. 26(c)(1). “Generally, a party seeking a protective order has a ‘heavy
18 burden’ to show why discovery should be denied[.]” *Sequoia Prop. & Equip. Ltd. P’ship v.*
19 *United States*, 203 F.R.D. 447, 451 (E.D. Cal. 2001) (citing *Blankenship v. Hearst Corp.*, 519
20 F.2d 418, 429 (9th Cir. 1975)). “[C]ourts do not readily grant protective orders against an entire
21 set of discovery requests on the grounds that the number of requests is excessive.” *Lauter v.*
22 *Rosenblatt*, 2019 WL 4138020, at *19 (C.D. Cal. July 1, 2019) (citing *Jones v. Skolnik*, 2014 WL

2625000, at *2 (D. Nev. June 12, 2014)).

IV. ANALYSIS

Defendants argue the “amount of RFAs is oppressive and unduly burdensome on its face.” (Dkt. No. 60 at 1.) Defendants contend their choice “not [to] address the contents of the RFAs . . . was deliberate” as the “sheer number of RFAs served on [all four] Defendants is inherently annoying, oppressive, and unduly burdensome.” (Dkt. No. 65 at 2.) Defendants purport that “[e]ven if every single RFA were simple and straightforward . . . 461 RFAs is still plainly excessive.” (*Id.*) Defendants cite to *Dang v. Johnson* and *Mitchell v. Yuetter*, arguing the respective courts granted a protective order for far fewer RFAs. (Dkt. No. 60 at 3–4) (2023 WL 157616 (W.D. Wash. Jan. 11, 2023); 1993 WL 139218 (D. Kan. Jan. 12, 1993)).

Defendants’ argument is misguided. In both *Dang v. Johnson* and *Mitchell v. Yuetter*, the courts analyzed the content of the RFAs and did not make judgments based solely on the volume of RFAs. In *Dang*, this Court noted that “[s]everal of the Plaintiff’s requests are ambiguous and unclear” and that “some of the requests are purely issues of law and not about ‘facts or application of law to fact.’” *Dang*, 2023 WL 157616, at *3 (W.D. Wash. Jan. 11, 2023) (internal citation omitted). The Court, finding “there is no showing [the RFAs] seek relevant information [or that] these requests are proportional to the needs of the case[,]” held the 300 propounded RFAs unduly burdensome and granted the protective order. *Id.* Similarly, the Kansas district court in *Mitchell* found “that many of the requests focus on small details, and not factual issues in this case” and that “many of the requests are vague.” *Mitchell*, 1993 WL 139218, at *1 (D. Kan. Jan. 12 1993).

1 Importantly, Defendants here do not argue the content of the RFAs is inappropriate.
 2 They also fail to provide the Court with copies of the RFAs so the Court may investigate their
 3 content. Nor do they identify specific RFAs that may be clearly objectionable. At a minimum,
 4 identifying specific objectional RFAs is necessary for the Court to consider the issuance of a
 5 protection order. *See Miller v. White*, 2019 WL 8683325, at *4 (C.D. Cal. Nov. 8, 2019)
 6 (denying protective order where defendants failed to identify particular RFAs that were not
 7 tailored to individual defendants]; *Flynn v. Love*, 2022 WL 3704082, at *2 (D. Nev. Feb. 25,
 8 2022) (denying protective order because defendants did not specifically articulate which RFAs
 9 are objectionable); *Manago v. Williams*, 2010 WL 5059684, at *4 (E.D. Cal. Dec. 6, 2010)
 10 (granting protective order after reviewing RFAs and finding plaintiff could easily obtain answers
 11 to the requests themselves); *Byard v. City & Cnty. of San Francisco*, at *2 (N.D. Cal. Mar. 15,
 12 2017) (granting protective order after reviewing RFAs and finding the requests argumentative
 13 and vague).

14 It is Defendants' burden to show the RFAs are overly burdensome, and the Court,
 15 without the opportunity to review the RFAs, cannot find Defendant has met this burden based on
 16 the volume of requests alone.¹


17 18 **V. CONCLUSION**

19 Accordingly, having reviewed the instant motion, the briefing of the parties, and the
 20 remainder of the record, the Court hereby DENIES Defendants' motion for a protective order
 21 and ORDERS that Defendants have 60 days from the date of this Order to respond to Plaintiff's
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23 ¹ Notwithstanding the Court's ruling, Plaintiff should be aware that the issuance of additional
 24 RFAs likely will be reviewed closely for possible abusive discovery practices.

1 propounded RFA. Plaintiff's pending motion to deem the facts in the propounded RFAs as
2 admitted (Dkt. No. 76) is MOOT and will be stricken.

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4 Dated this 3rd day of January 2024.

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8 David G. Estudillo
9 United States District Judge
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